

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

M2 CONSULTING, INC.

Plaintiff,

v.

C.A. No. 03-12589-GAO

MRO SOFTWARE, INC.

Defendant.

**MRO SOFTWARE, INC.'S CONDITIONAL ASSENT
TO THE PLAINTIFF'S MOTION TO FILE AMENDED COMPLAINT**

Defendant MRO Software, Inc. ("MRO") hereby submits this Conditional Assent to the Motion to File Amended Complaint ("Motion to Amend"), filed by M2 Consulting, Inc. ("M2").

MRO does not oppose M2's Motion to Amend, subject to a modification of the discovery schedule as proposed below. With its Amended Complaint, M2 has made dramatic changes to its factual and legal allegations in this case. Thus, the court should modify the discovery schedule to provide sufficient time for the parties to complete fact discovery in this matter.

If M2's Motion to Amend is allowed, the Amended Complaint will greatly expand M2's factual and legal claims against MRO. M2's Amended Complaint sets forth six new causes of action, numerous new factual allegations and adds a new defendant, Craig Newfield, general counsel to MRO. The allegations with regard to Mr. Newfield concern his alleged actions relating to out of state entities and are the basis of some of M2's new causes of action against MRO.

The defendants are entitled to a reasonable period of time with which to conduct and complete discovery into M2's new claims and causes of action. As an initial matter, a new defendant has been named in M2's Amended Complaint and will be entitled to propound discovery requests if M2's Motion to Amend is allowed. Further, MRO is also entitled to inquire into the new legal and factual allegations against it. M2 itself recognizes that a scheduling extension may be appropriate, stating that it "is willing to agree to any reasonable extension of the discovery deadline in the event that the Defendants are unable to complete discovery prior to its current expiration date . . ." (Motion to Amend, para. 8.)

In order to allow adequate discovery into the new legal and factual claims raised in M2's Amended Complaint, MRO proposes a modification to the discovery schedule as follows:

- Change the existing January 31, 2005 deadline (which had been informally agreed to by the parties) for the completion of fact discovery, to April 30, 2005;
- Move the deadline for M2's expert report from March 31, 2005 to June 15, 2005;
- Modify the deadline for MRO's expert report from April 29, 2005 to July 31, 2005;
- Change the deadline for the completion of all expert witness depositions from June 30, 2005 to August 31, 2005; and
- Amend the date of the Status Conference from July 14, 2005 to anytime after September 1, 2005, at the convenience of the court.

Counsel to MRO proposed the above schedule to M2's attorney during a discovery conference on December 13, 2004, however, M2 failed to respond to MRO's proposal prior to the filing of this Opposition.

The reasons set forth above counsel strongly in favor of extending the discovery schedule as proposed. Accordingly, M2's Motion to Amend should be allowed, subject to the approval of the proposed discovery schedule provided herein.

MRO SOFTWARE, INC.,

By its attorneys,

/s/ Kurt Bratten

Lee T. Gesmer (BBO No. 190260)
Kurt Bratten (BBO No. 644730)
Gesmer Updegrove LLP
40 Broad Street
Boston, MA 02109
Kurt.Bratten@gesmer.com
(617) 350-6800

Dated: December 17, 2004